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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,942	12/27/2000	Charles A. Eldering	T721-15	6478

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TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME
2003 SOUTH EASTON RD
SUITE 208
DOYLESTOWN, PA 18901

EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/748,942

Applicant(s)

ELDERING ET AL.

Examiner

Christopher M. Lambrecht

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11,15-22 and 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11,15-22 and 24-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed October 24, 2006 have been fully considered but they are not persuasive.

Applicants argue that the combination of Hite and Guyot "fails to teach or suggest all of the features of independent claim 1." (Reply, 16.) Specifically, Applicants argue that

neither of the applied references teaches or suggests a communications interface that receives "at least one queue ... wherein at least one of the targeted advertisements is repeatedly placed in the queue according to a controllable predetermined spacing, the controllable predetermined spacing being representative of the number of intervening advertisements between occurrences of the at least one targeted advertisements."

(*Id.* (no emphasis added))

Hite discloses a communications interface that receives at least one queue identifying a sequence of targeted advertisements. (Hite, col. 5, ll. 1-30 (describing a set-top box configured to receive instructions that direct subsequent storage and display of sequentially transmitted targeted advertisements).) Hite further discloses at least one of the targeted advertisements is repeatedly displayed at the subscriber site according to a "frequency" or "number of times" specified by the advertiser. (*Id.*, col. 2, l. 66 - col. 3, l. 8.) Accordingly, Hite discloses that at least one of the targeted advertisements is repeatedly placed in the queue according to a controllable predetermined spacing, i.e., a frequency or number of times specified in the contract.

Moreover, Guyot implements display frequency using a specified time interval (col. 4, ll. 64-65). And it is implicit in Hite that other, intervening, advertisements are displayed between occurrences of the at least one targeted advertisement. (Hite, e.g., col. 2, ll. 18-32). The more frequently the at least one targeted advertisement is displayed, the fewer the number of intervening advertisements will be. Therefore, the specified frequency, or “controllable predetermined spacing,” is “representative of the number of intervening advertisements between occurrences of the at least one targeted advertisement” as claimed.

Applicants argue, “[f]or the same reasons discussed above with respect to independent claim 1, the combination of Hite and Guyot do not teach or suggest all features of independent claim 15.” (Reply 17.) As discussed above, the Examiner submits that the display frequency of the targeted advertisements in Hite and Guyot is representative of the number of intervening advertisements between occurrences of the targeted advertisements, any two of which correspond to the sequence recited in claim 15. Further, because placement of the targeted advertisements according to the specified display frequency will necessarily result in some number of intervening advertisements between successive occurrences of the targeted advertisements, it follows that the display frequency in specifies the number of intervening advertisements, as required by claim 15.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11, 15-22, and 24-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,002,393 ("Hite") in view of U.S. Patent No. 6,119,098 ("Guyot").

Regarding claim 1, Hite discloses, in a television network (fig. 1), subscriber equipment (at display site 400, detailed in fig. 4) for displaying targeted advertisements to a subscriber (col. 6, ll. 39-47), the subscriber equipment comprising: a communications interface (commercial processor 578 of set-top box 500, fig.5) for receiving at least one queue (targeted commercial display instructions/commercial targeting information, col. 11, ll. 45-51) identifying a sequence of targeted advertisements (instructions indicate which commercials to play, col. 4, ll. 9-14, and specify playback sequence of targeted commercials, col. 3, ll. 8-17), wherein the at least one queue is selectively distributed to the subscriber and the targeted advertisements have been previously matched to the subscriber (col. 7, ll. 57-65), and wherein a sequence of at least two of the targeted advertisements is placed in the queue according to a controllable predetermined spacing (frequency) specifying successive occurrences of the targeted advertisements in the

Art Unit: 2623

sequence (col. 2, lines 66 - col. 3, l. 8); memory (612, fig. 6) for storing the at least one queue (col. 11, ll. 22-27 and 53-54; see also col. 4, ll. 9-14); a processor (600, fig. 6), responsive to the at least one queue, configured to repeatedly insert the targeted advertisements into avails in program streams (designated commercial times/spots, col. 12, ll. 15-27) for display to the subscriber in accordance with the sequence (col. 11, ll. 58-60, col. 4, ll. 53-56, and col. 3, ll. 8-17), wherein the sequence is independent of the content of the corresponding program stream (col. 3, ll. 8-17 and col. 5, ll. 40-51).

Hite fails to disclose that the spacing specifies the number of intervening advertisements between successive occurrences of advertisements in the sequences, and the trigger circuit, as claimed. However, in an analogous art, Guyot discloses a targeted advertisement system in which targeted advertisements are successively placed in a queue for display according to a specified time interval (Guyot, col. 4, ll. 35-65); and the queue is depleted (i.e., reaches a low-level) responsive to a determination that individual ads specified therein have been successfully presented a given number of times, as established by their respective providers (col. 6, l. 67 - col. 7, l. 6 and col. 3, l. 66 - col. 4, l. 14). Further, Guyot discloses a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit (col. 6, ll. 64-67 and col. 7, ll. 6-11), thus keeping the ads queued for display to the subscriber up to date (col. 2, ll. 29-36).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Hite to include a predetermined controllable spacing that specified the time interval, and thus the number of intervening advertisements, between successive occurrences of the targeted advertisements in the sequence; and a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit, as taught by Guyot, for the benefit of increasing advertising opportunities by continuously refreshing ads queued for display in accordance with fulfillment of prior advertisement contracts.

Regarding claims 15, 30, 35, and 37, Hite and Guyot together teach the claimed steps as applied to the corresponding subscriber equipment of claim 1, above.

As to claims 2 and 16, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, further comprising a counter for tracking the number of times each targeted advertisement is displayed to the subscriber (Hite, col. 2, l. 66 - col. 3, l. 8, and col. 3, ll. 29-40).

As to claim 3, Hite and Guyot together disclose the system of claim 1, wherein said communications interface also receives the targeted advertisements and said memory also stores said targeted advertisements (Hite, col. 12, ll. 3-27).

As to claims 4 and 17, Hite and Guyot together disclose the system and corresponding method of claims 3 and 15, wherein each targeted advertisement stored in memory is identified by an advertisement identifier that uniquely identifies the targeted

advertisement and the at least one queue references the advertisement identifier (where data related to the usage of particular advertisement at the receiver site is maintained [see rejection of claim 3], there inherently exists a unique advertisement identifier; furthermore, presentation of particular commercials in a sequence according to the commercial display instructions [*i.e.*, queue; see rejection of claims 1 and 15] inherently requires said instructions reference said identifier).

As to claims 5 and 18, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein for each targeted advertisement, the at least one queue includes advertiser data identifying the advertiser sponsoring the advertisement (where the usage a of a particular advertisement is subsequently referenced to the sponsoring advertiser [see rejection of claim 3], said queue inherently includes data which can identify said sponsoring advertiser).

As to claims 6-8, and 19-21, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein for each targeted advertisement, the at least one queue includes: a time frame defining a time during which the targeted advertisement should be displayed, including an hour frame, as claimed; and an expiration date of the targeted advertisement, as claimed (Guyot, col. 4, ll. 34-57).

As to claims 9 and 22, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein said trigger circuit determines that the at least one queue has reached a low-level if the at least one queue has less than a

predetermined number of targeted advertisements remaining (Guyot, col. 6, l. 64 - col. 7, l. 11).

As to claim 10, Hite and Guyot together disclose the system of claim 1. In addition, Hite discloses said communication interface is connectable to an advertising management system (200, fig. 1) over a network connection wherein the targeted advertisements are identified by the advertisement management system based on a profile of the subscriber supplied to the advertisement management system (col.7, ll. 7-36).

As to claim 11, Hite and Guyot together disclose the system of claim 1. In addition, Hite discloses the at least one queue includes a state indicator (low-level trigger) for activating said trigger circuit (Guyot, col. 6, l. 64 - col. 7, l. 11).

As to claims 24 and 31-33, and 36, Hite and Guyot teach the system and method of claims 1, 30, and 35, wherein the controllable predetermined spacing is variable (specified by advertiser; Guyot, col. 4, ll. 1-14).

As to claims 25, 38, and 39, Hite and Guyot teach the method of claims 15 and 37, wherein at least three advertisements of the targeted advertisements are placed in the queue according to the controllable predetermined spacing (each advertisement is placed accordingly; Guyot, col. 4, ll. 1-14; thus any number of targeted advertisements, including three, are placed according to the spacing).

As to claims 26, 34, and 40, Hite and Guyot teach the methods of claims 25, 30, and 38, wherein the controllable predetermined spacing specifies different numbers of intervening advertisements between successive advertisements in the sequence (e.g., ad

day frame set to one day of the week with a daily ad frequency greater than one; see Guyot, col. 4, ll. 40-67).

As to claims 27, 28, 41, and 42 Hite and Guyot teach the method of claims 15 and 37, wherein the at least two advertisements are identical and sponsored by the same advertiser (i.e., repeated or successive occurrences of a single targeted advertisement; Hite, col. 3, ll. 1-8).

As to claims 29 and 43, Hite and Guyot teach the method of claims 15 and 37, wherein the at least two advertisements are variants of each other (Hite, col. 3, ll. 9-17).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 6,507,949 B1, abstract; U.S. Patent No. 6,005,534, col. 9, ll. 1-20; U.S. Patent No. 5,848,397, col. 9, l. 65 - col. 10, l. 20.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on Mon-Fri, 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Examiner
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